

CITY OF DEL MAR

Proposition G

(This proposition will appear on the ballot in the following form.)

PROP G

Shall the ordinance approving the Garden Del Mar Specific Plan, as approved by the Del Mar City Council On August 4, 2008, be adopted?

This proposition requires approval by a simple majority (over 50%) of the voters voting on the proposition.

Full text of this proposition follows the argument.

CITY ATTORNEY IMPARTIAL ANALYSIS

The voters approved the Downtown Initiative ("Measure B") on April 8, 1986. Measure B requires specific plans for properties in the downtown commercial area larger than 25,000 square feet or proposing more than 11,500 square feet of development to be approved by the voters. The Garden Del Mar Specific Plan proposes development on a primarily vacant lot of 25,527 square feet. Total development on the lot is expected to be approximately 19,650 square feet of floor area. Therefore, the Garden Del Mar Specific Plan requires approval by the voters prior to any development occurring on the site. The City Council adopted the Garden Del Mar Specific Plan on August 4, 2008.

The Specific Plan includes discussions related to 1) Design Elements, 2) the City's Community Plan, 3) amendments to the Local Coastal program, 4) consistency with applicable city planning documents, 5) compliance with Measure B, 6) Bonuses and Exceptional Public Benefits, 7) the proposed zoning regulations, and 8) the adoption, amendment and enforcement of the Specific Plan. The Garden Del Mar Specific Plan creates a regulatory framework governing the development of the site. If approved by the voters, it will replace the current zoning. The documents approved by the City Council on July 28, 2008 and August 4, 2008 are located at the City Clerk's office in the City of Del Mar at 1050 Camino Del Mar or online at www.delmar.ca.us.

The proposed project is located on the southeast corner of Camino Del Mar and 10th Street. The permitted uses in the Specific Plan are office, retail and restaurant and the buildings will be arranged as an open campus of six two-story buildings parallel to Camino Del Mar. A total of three public plazas will be constructed within the proposed project. The front row/street-level commercial spaces along Camino Del Mar and bordering the corner public plaza will be reserved for retail and restaurant uses.

If a majority of the voters vote "yes" on Proposition G, development could proceed in accordance with the provisions of the Garden Del Mar Specific Plan. If a majority of the voters vote "no" on Proposition G, the existing zoning would remain and development could not occur under the Garden Del Mar Specific Plan.

The above statement is an impartial analysis of Proposition G. If you desire a copy of Proposition G, please call the City Clerk's office at (858) 755-9313. This information can also be viewed on the City's website: www.delmar.ca.us.

ARGUMENT IN FAVOR OF PROPOSITION G

In 1986, voters approved Measure B to protect against inappropriate commercial development in our downtown and to further Community Plan goals of creating an economically viable, pedestrian oriented and attractive downtown that serves the needs of both residents and visitors. Measure B allows the citizens of Del Mar to have a direct voice in the redevelopment of properties along Camino Del Mar.

Both Del Mar Plaza and L'Auberge Del Mar were approved under the provisions of Measure B.

A recent report commissioned by the Del Mar Village Association and the City described a commercial district struggling to survive and failing to provide the necessary sales tax revenues that our city needs.

The Garden Del Mar Specific Plan is the product of unprecedented collaboration between the owners of the old gas station property and a Steering Committee made up of Del Mar residents appointed by the City Council.

Over 18 months, the Steering Committee listened to concerns of residents and merchants; the Committee questioned and validated the property owner's financial projections and product mix; and it directed the property owner's redesign of the project.

The Garden Del Mar Specific Plan provides a long-needed southern anchor for our downtown including a restaurant, a café, retail shops, public plazas, office space for Del Mar residents, underground public parking, traffic calming measures and other mitigation to protect surrounding neighborhoods, an architectural design that enhances our community, and over \$750,000 in off-site public benefits – all of which will be required by a binding Development Agreement.

After more than 60 community meetings, this project was unanimously approved by the Design Review Board, Planning Commission and City Council. It represents an important step in revitalizing our downtown to better serve the needs of residents and to achieve the goals of our Community Plan. It deserves your YES vote.

DAVID DRUKER
Mayor
Del Mar City Council

CRYSTAL CRAWFORD
Deputy Mayor
Del Mar City Council

HENRY ABARBANEL
Councilmember
Del Mar City Council

RICHARD EARNEST
Councilmember
Del Mar City Council

CARL HILLIARD
Councilmember
Del Mar City Council

ARGUMENT AGAINST PROPOSITION G

No argument against the proposition was filed
in the office of the City Clerk.

ORDINANCE NO. 809

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, TO APPROVE THE GARDEN DEL MAR SPECIFIC PLAN (SP-07-01)

WHEREAS, Schaar Homes (hereinafter "PROPERTY OWNER") is the owner of a 25,527 square foot property located at 941 Camino Del Mar in the City of Del Mar, APN 300-221-32, 33 (hereinafter "PROPERTY"); and

WHEREAS, the PROPERTY is located in the City of Del Mar's Central Commercial zoning district; and

WHEREAS, Del Mar Municipal Code Chapter 30.54, Overlay Zone: Downtown Initiative, also known as "Measure B," requires that proposals for development on properties located in the Central Commercial Zone containing an area of 25,000 square feet or more be subject to the preparation of a specific plan; and

WHEREAS, the PROPERTY OWNER requested permission to prepare a specific plan for the PROPERTY; and

WHEREAS, the City Council of the City of Del Mar (hereinafter "CITY COUNCIL") on September 11, 2006 adopted Resolution No. 2006-40 establishing a Gas Station Site Steering Citizens Committee (hereinafter "COMMITTEE") in order to facilitate and direct the preparation of a Specific Plan for the PROPERTY; and

WHEREAS, the COMMITTEE met and conducted 65 public meetings in a 20-month period to seek public input and provide guidance on the preparation of the Garden Del Mar Specific Plan; and

WHEREAS, the Garden Del Mar Specific Plan was submitted for review by the City Council and by the Del Mar Planning Commission (hereinafter "PLANNING COMMISSION"); and

WHEREAS, the PLANNING COMMISSION conducted two duly-noticed public hearings on the proposed Garden Del Mar Specific Plan, on May 15, 2008 and again on June 10, 2008; and

WHEREAS, the PLANNING COMMISSION thoroughly reviewed and considered the Garden Del Mar Specific Plan, including all text, maps, exhibits, and other materials submitted by the PROPERTY OWNER and contained on record in City files; and

WHEREAS, following the close of the public hearings, the PLANNING COMMISSION adopted Resolution No. PC-08-10 on June 10, 2008, finding that the Garden Del Mar Specific Plan is consistent with the provisions of the Del Mar Community Plan and recommending approval of the Garden Del Mar Specific Plan by the City Council; and

WHEREAS, the City of Del Mar Design Review Board (hereinafter "DRB") conducted a duly-noticed public hearing on the Design Review Application associated with the Garden Del Mar Specific Plan, DRB-08-23, on July 9, 2008; and

WHEREAS, the DRB thoroughly reviewed and considered the development plans associated with the Garden Del Mar Specific Plan, including all text, maps, exhibits, and other materials submitted by the PROPERTY OWNER and contained on record in City files; and

WHEREAS, following the close of the public hearing, the DRB adopted Resolution No. DRB-08-25 on July 9, 2008 conditionally approving application DRB-08-23, finding that the application, as conditioned, is consistent with the provisions of the Del Mar Community Plan and with the provisions of Del Mar Municipal Code Chapter 23.08, Design Review; and

WHEREAS, the CITY COUNCIL conducted duly-noticed public hearings on the proposed Garden Del Mar Specific Plan on May 15, June 30 and July 21, July 28, and August 4, 2008; and

WHEREAS, the CITY COUNCIL thoroughly reviewed and considered the Del Mar Community Plan and the Garden Del Mar Specific Plan, including all text, maps, exhibits, and other materials submitted by the PROPERTY OWNER and contained on record in city files; and

WHEREAS, additional evidence was submitted to and considered by the CITY COUNCIL, including, without limitation:

- a. Written information submitted by the PROPERTY OWNER.
- b. Oral testimony from Staff, the PROPERTY OWNER, and the public.
- c. The Staff reports, dated May 15, June 30, July 21, July 28, and August 4, 2008 which, along with the attachments, are incorporated herein by this reference as though fully set forth herein.
- d. Additional information submitted during the hearing; and

ORDINANCE NO. 809 (Continued)

WHEREAS, the Garden Del Mar Specific Plan and the associated development proposals have been reviewed in an Environmental Impact Report prepared consistent with the provisions of the California Environmental Quality Act, Sections 21000-21178 of the Public Resources Code, and which EIR was certified by Resolution No. 2008-62 of the City Council on August 4, 2008; and

WHEREAS, pursuant to Del Mar Municipal Code Chapter 30.54, following the City Council adoption of a specific plan subject to this chapter, the specific plan shall be placed on the ballot for approval by the voters and a voter summary of the project is included as Exhibit "A" attached hereto.

NOW THEREFORE, the City Council of the City of Del Mar, California, does ordain as follows:

SECTION ONE:

The adoption of this Ordinance is based on the entirety of the record, including all plans, staff reports, oral and written evidence in the administrative record and includes the following findings based on substantial evidence in the record:

1. The Garden Del Mar Specific Plan, incorporated herein as Exhibit "B," was prepared in accordance with Government Code sections 65450-65457.
2. The Garden Del Mar Specific Plan and its text and diagrams, specifies all the following elements at an appropriate level of detail for the development proposed in the Garden Del Mar Specific Plan:
 - a. The distribution, location and extent of the uses of the land, including open space, within the area subject to the Garden Del Mar Specific Plan (See Section 2 "Elements");
 - b. The proposed distribution, location and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities needed to support the land uses described in the Garden Del Mar Specific Plan (See Section 2 "Elements");
 - c. The standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable. (See Section 4 "Local Coastal Program"; Section 5 "Conformance with Additional City of Del Mar Documents"; and Section 8 "Zoning Regulations"); and
 - d. A statement of consistency of the Garden Del Mar Specific Plan with the Del Mar Community (General) Plan. (See Section 3 "Conformance with the Del Mar Community Plan")
3. The Garden Del Mar Specific Plan contains all of the components required by Del Mar Municipal Code Chapter 30.54, the Downtown Overlay Zone Ordinance, and is consistent with the provisions of the Downtown Overlay Zone Ordinance.
4. There have been changed conditions since the application of the Central Commercial Zone designation to the PROPERTY. Notably, the adoption of Measure B in 1986 and its requirements for preparation of a specific plan for larger development proposals in the City's downtown area.
5. Adoption of the Garden Del Mar Specific Plan would not affect the established character of the surrounding neighborhood in an adverse manner because the proposed uses contained in the Garden Del Mar Specific Plan are consistent with the uses currently allowed for the property, as identified in the existing Central Commercial Zone and are also consistent with existing uses in the vicinity. The Garden Del Mar Specific Plan and associated project drawings have been designed to include neighborhood protection measures to address potential impacts on the community due to a new development on the PROPERTY. The project has also been subject to the review and approval of the City's design review process via the Design Review Board, thereby ensuring that the building and site design contained in the Garden Del Mar Specific Plan will be compatible with surrounding neighborhood.
6. Adoption of the Garden Del Mar Specific Plan would not change the intent of the goals and objectives of the Community Plan for the Village Center and would, in fact, contribute to the goals of creating a vibrant downtown while also preserving a village-like atmosphere and ensuring that commercial development is integrated into the residential fabric of the community

ORDINANCE NO. 809 (Continued)

SECTION TWO:

The Garden Del Mar Specific Plan on file with the City Clerk is hereby adopted and shall be included as part of the zoning regulations of the City of Del Mar only upon approval of the Specific Plan by the voters. The Planning Director is directed to amend the City's Zoning Map to comply with this Ordinance immediately upon certification of the results of a successful election.

SECTION THREE:

This Ordinance shall be submitted to the qualified voters of the City of Del Mar at the general municipal election to be held on November 4, 2008, and will become the law of the City of Del Mar upon declaration by the City Council of the results of an election indicating a simple majority approval of the Garden Del Mar Specific Plan by the qualified voters of the City of Del Mar. This Ordinance, including the Del Mar Specific Plan, may only be modified, amended or repealed by a vote of the People.

The Garden Del Mar Specific Plan shall be of no force or effect and no permits or development shall issue or occur pursuant to the adopted Specific Plan until a Development Agreement has been approved by the City in accordance with Government Code section 65865. The Development Agreement required by this condition shall include, at a minimum, the following:

1. Terms and conditions related to traffic and parking which plans shall include provisions that limit project owner(s) and their employees from parking on residential streets and specifying the plan for enforcing the parking restrictions specified in the Specific Plan and/or Development Agreement. All terms and conditions relating to parking on residential streets shall continue in perpetuity and shall be recorded as a covenant or other legally acceptable document against the property.
2. Terms and conditions related to the receipt and implementation of the Exceptional Public Benefits provided for in the Garden Del Mar Specific Plan.
3. Construction Phase traffic, circulation, parking and operational plans specifying requirements that will ensure construction activity has a minimal impact on the surrounding residential uses.

SECTION FOUR:

City staff is directed to take such actions as may be necessary to complete the election required by this Ordinance in accordance with applicable law.

SECTION FIVE:

This Ordinance was introduced and first read at a meeting of the City Council of the City of Del Mar, California on the 28th day of July 2008.

SECTION SIX:

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

PASSED AND ADOPTED this 4th day of August, 2008, by the following vote:

AYES: Councilmembers Abarbanel, Earnest, Hilliard,
Deputy Mayor Crawford; Mayor Druker
NOES: None
ABSENT: None
ABSTAIN: None

DAVID DRUKER, Mayor,
City of Del Mar, California

ATTEST AND CERTIFICATION:

I hereby certify that this is a true and correct copy of Ordinance No. 809, which has been published pursuant to law.

MERCEDES MARTIN, City Clerk
City of Del Mar

Exhibit "A" to Ordinance No. 809

VOTER SUMMARY OF THE GARDEN DEL MAR BALLOT MEASURE

What is the Garden Del Mar Project?

The Garden Del Mar ("GDM") is a project proposed to redevelop the former UltraMar gas station site at the southeast corner of Camino Del Mar and 10th Street. The proposed mixed-use commercial development will include restaurant, retail and office uses situated in six two-story structures built over a two-level subterranean parking garage which will have 106 parking spaces. The project's design features the two-story buildings set in an open campus with public plazas to create an attractive pedestrian-oriented streetscape to help define the southern gateway to Downtown Del Mar. The project is proposed as an office and retail condominium project. Adjacent land uses include single-family residences to the east, commercial development and medical offices to the north, commercial development to the west, and commercial development and office buildings to the south.

Why is this matter before the voters?

The voters approved the Downtown Initiative ("Measure B") for the City of Del Mar on April 8, 1986 which requires specific plans for properties in the downtown commercial area larger than 25,000 square feet or proposing more than 11,500 square feet of development to be ratified by the voters. GDM's lot is 25,527 square feet in size and the project proposes to build 19,650 square feet of floor area and is, consequently, subject to the Downtown Initiative and its voter ratification requirement. The Del Mar City Council approved the GDM specific plan on August 4, 2008 and submitted this measure to the voters. The specific plan will only be effective if it is approved by a majority of the voters and when a development agreement is executed between the City and GDM to implement the Specific Plan. If both voter approval and an executed development agreement are obtained, then GDM can exercise the development rights allowed by the Specific Plan.

What is the Garden Del Mar Specific Plan ("GDMSP")?

The purpose of the GDMSP is to create a regulatory framework governing the development of the site. If approved by the voters, the GDMSP will be used to guide development at the site, replace the current zoning, and ensure that future development at the site does not have significant adverse impacts to the City and is consistent with the existing and desired character of Del Mar. The full text of the GDMSP and the associated documents approved by the City Council on July 28, 2008 and August 4, 2008 regarding the GDM project can be located at the City Clerk's office in the City of Del Mar at 1050 Camino Del Mar or online at: www.delmar.ca.us.

The GDMSP consists of ten sections which address the following issues:

A. Design Features:

Restaurant/Retail: GDM proposes a mix of restaurant, café, retail and office uses on the street-level spaces to maximize the economic and social vitality along the southern portion of Camino Del Mar by creating an active pedestrian-oriented streetscape.

Buffer to Residential Neighborhood: The proposed buildings closest to the residential neighborhood to the east will be limited to professional office uses so as to allow a quiet buffer zone. Also, by designing the project in three rows of buildings, the adjacent residential neighborhoods will be buffered from the street-level noise and activity along Camino Del Mar.

Sustainable Design: The GDM project will remediate the contamination from its prior gas station use and development. The GDM buildings are designed to meet the standards of the United States Green Building Council ("USGBC") LEED rating program. The project proposes to use renewable or recycled materials and to configure the buildings to minimize energy consumption. GDM also proposes a green roof system that provides for retaining/filtering storm water on-site, evaporative cooling, and an attractive alternative to views of typical rooftops.

Public Plazas: GDM proposes a total of three (3) public plaza areas to create attractive outdoor spaces for general public use and enjoyment. A 1,500 square foot public plaza will sit at the corner of the project site at Camino Del Mar and 10th Street. A 1,300 square foot interior plaza will include a fountain and fireplace for a quieter setting. Finally, GDM proposes a 900 square foot public view deck on the second level in the northwest portion of the site.

Exhibit "A" to Ordinance No. 809 (Continued)

Traffic and Parking: All on-site parking will be located beneath the buildings and plazas in an underground parking garage with 106 on-site parking spaces which exceeds the zoning requirements for the site. The project will create new parallel spaces along Camino Del Mar for cars and motorcycles and a new commercial loading space on Camino Del Mar will serve businesses. The project will implement the Camino Del Mar Streetscape Plan with the creation of a new bike lane, curb, sidewalks, street trees, and street furniture along Camino Del Mar. This reconfiguration seeks to improve traffic flow, support nearby retail uses, and further reduce the potential for commercial traffic and parking in the adjacent neighborhoods. The project will include a number of features designed to protect the adjacent residential district from commercial traffic and from vehicles from exiting the site and traveling eastbound on 10th Street. Further, the Specific Plan requires that all employees park on-site.

B. *GDMSP's Conformance with the Del Mar Community Plan:*

The City Council has found the project to be consistent with all aspects of the Del Mar Community Plan. A detailed discussion of these findings of consistency can be found at Section 3 of the GDMSP.

C. *Local Coastal Program:*

The GDMSP will be incorporated by amendment into the City's existing Local Coastal Program which has been certified by the California Coastal Commission. The GDMSP has been found consistent with the Local Coastal Program by the City, although final approval of a Local Coastal Program amendment to incorporate the GDMSP must be granted by the California Coastal Commission. A detailed discussion of the GDMSP's consistency with the Local Coastal Program can be found at Section 4 of the GDMSP.

D. *Other City of Del Mar Planning Documents:*

The GDMSP has been analyzed under all other applicable Del Mar zoning and planning requirements, including the City's Streetscape Plan, Parking Master Plan, and Vision 2020 Report and has been found consistent therewith. A detailed discussion of these issues can be found at Section 5 of the GDMSP. In order to create the commercial condominium units proposed in the GDMSP, a subdivision map will be required which is expected to be submitted and reviewed after the election.

E. *Measure B, the Downtown Initiative:*

The City has found the GDMSP to be consistent with the Downtown Initiative and has determined that all of its requirements have been met, subject only to final action on the GDMSP by the voters. A detailed discussion of the GDMSP's consistency with the Downtown Initiative can be found at Section 6 of the GDMSP.

F. *Bonuses and Exceptional Public Benefits:*

The City Council has determined that exceptional public benefits justify and offset the increased floor area included in the GDMSP. A summary of these Exceptional Public Benefits is set out below. Full details can be found at Section 7 of the GDMSP.

G. *The Proposed Zoning Regulations for the Project:*

The GDMSP contains detailed zoning regulations governing the project addressing all aspects of the proposed project including: height limits to ensure limited, if any, view blockage; floor area requirements; standards for the use, maintenance and improvement of the public plaza areas; restrictions prohibiting amplified outdoor music and other strict noise regulations to protect neighboring properties; parking and ingress/egress regulations; restrictions on project unit owners and employees which will prohibit them from parking on neighboring streets; use regulations governing what activities are allowed on site; hours of operation; a requirement that easements in favor of the public, in perpetuity, be placed on the public plaza areas; and other matters. A detailed discussion of these zoning matters can be found at Section 8 of the GDMSP.

H. *Provisions Regarding the Adoption, Amendment, and Enforcement of the GDMSP:*

The GDMSP contains detailed provisions governing possible future amendments. Depending on the magnitude and significance of a proposed future change, the proposal may require approval by majority vote of the City Council, super majority (2/3) vote of the City Council, or voter approval. The details of these requirements can be found at Section 9 of the GDMSP. The GDMSP also contains detailed enforcement provisions to ensure that all the restrictions and requirements of the GDMSP and of the other applicable City requirements are complied with at all times. These enforcement provisions can be found at Section 9 of the GDMSP.

I. *Appendix with Maps and Figures as they Pertain to the Project:*

The reader is referred to the appendix and the maps and figures as a good means to evaluate the design aspects of the GDMSP.

Exhibit "A" to Ordinance No. 809 (Continued)

What are Exceptional Public Benefits ("EPB's") and what EPB's does GDM offer?

Projects subject to the Downtown Initiative portion of the Del Mar Municipal Code proposing development in the downtown commercial area with floor area exceeding the existing zoning requirements can only be approved if the development proposes offsetting "exceptional public benefits." The GDMSP seeks to exceed the maximum floor area ratio in its zone and in exchange proposes the following EPB's:

- Pay a monetary contribution of \$35 per month from each of the 43 units to the City's Housing Assistance Reserve Fund for a period of thirty years. The monthly contribution amount will be subject to a Consumer Price Index adjustment every five years. The net present value of this contribution for the thirty-year period is \$373,889.15. These funds will be allocated exclusively to the City's Housing Assistance Reserve Fund, with the proviso that expenditure of these funds will be evaluated in twenty years by the City Council, or sooner as allowed in Section 8.240(b)(4) of the GDMSP, and may be reallocated to another public benefit program in the City if the funds are no longer needed for housing assistance.
- If the City approves a paid parking program at the project within the five years following voter approval of the GDMSP, GDM will share 1/3 of its paid parking program revenue with the City for a period of thirty years thereafter to be allocated to a special City-controlled fund to be used for City park improvements. If the City has not approved a paid parking program within the five-year period, GDM will contribute a total of \$125,000 over a five-year period to be used for improvements at City parks. A paid parking program may only be instituted at the project if (1) a neighborhood permit parking program is in place to prevent owners, employees, and customers of the project from parking in the adjoining neighborhood and (2) the City has approved a paid parking program at the project as required by the GDMSP.
- GDM will provide extra public parking in the downtown area, including 3 spaces in the parking garage reserved exclusively for public use for those visiting the public plaza areas of the project.
- GDM will provide three dedicated public plazas with easements in favor of the City and the public to guarantee they are available for public use.
- GDM was redesigned in response to input from the community from a strictly office project to a mixed-use project which includes retail and restaurant uses. The City found that inclusion of these restaurant and retail components would be important in furthering downtown revitalization, particularly at the south end of town, and in furthering the resident-serving goals of the Community Plan by providing opportunities for local shopping and dining.
- GDM will use energy-efficient and environmentally-friendly design and will seek LEED ("Leadership in Energy and Environmental Design") certification.

What type of public review has GDM undergone?

In the early stages of this project, the Del Mar City Council appointed a five-member citizen Steering Committee to guide and oversee the preparation and adequacy of the GDMSP, ensure and facilitate public input, and act as a citizens' advisory group. The Steering Committee held over 50 public meetings between October 2006 and May 2008. GDM established a project website to introduce the project and solicit public opinion. To initiate public comment, the project sponsors conducted two city-wide mailings directly to every resident and property owner in the City of Del Mar and held two open houses at the project site. As a result of community input, the sponsors redesigned the project from an office-only project to a mixed-use restaurant, café, retail and office project.

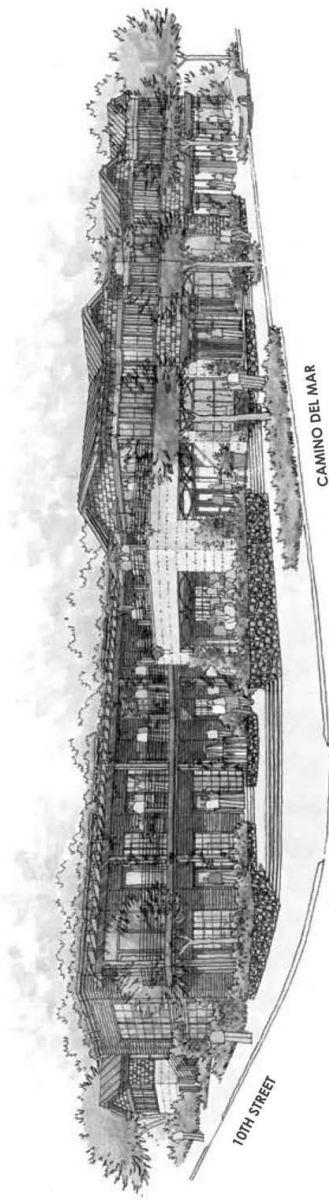


Exhibit "A" to Ordinance No. 809 (Continued)

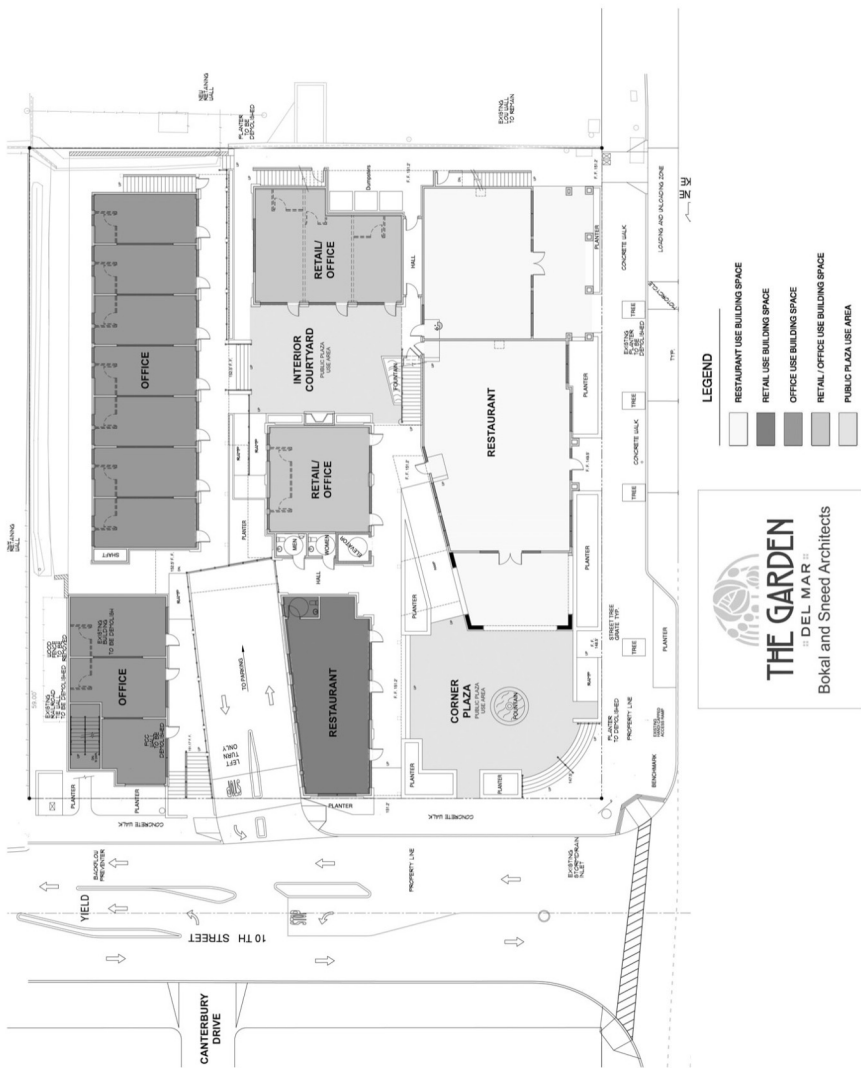
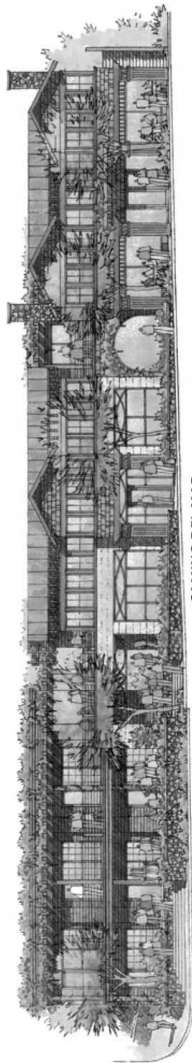
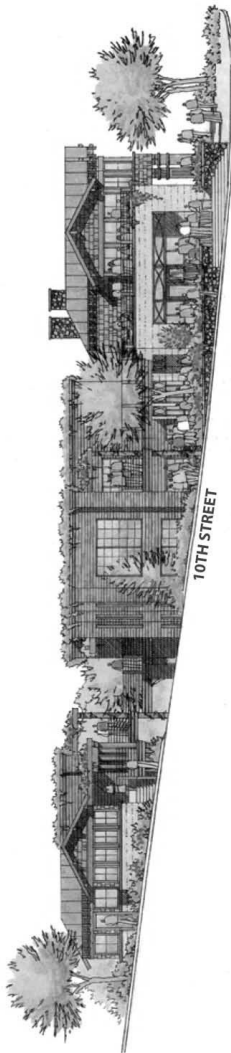


Exhibit "A" to Ordinance No. 809 (Continued)





CAMINO DEL MAR
WEST ELEVATION



10TH STREET
NORTH ELEVATION



Exhibit "A" to Ordinance No. 809 (Continued)

